

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:18-CV-266-D

MELVIN KIMBLE, )  
                    )  
                    )  
Plaintiff,       )                                  **ORDER**  
                    )  
                    )  
v.                 )  
                    )  
ANDREW M. SAUL, )  
Commissioner of Social Security, )  
                    )  
                    )  
Defendant.       )

On July 23, 2019, Magistrate Judge Gates issued a Memorandum and Recommendation (“M&R”) [D.E. 22] and recommended that the court grant plaintiff’s motion for judgment on the pleadings [D.E. 16], deny defendant’s motion for judgment on the pleadings [D.E. 18], and remand the action to the Commissioner.<sup>1</sup> Neither party objected to the M&R.

“The Federal Magistrates Act requires a district court to make a de novo determination of those portions of the magistrate judge’s report or specified proposed findings or recommendations to which objection is made.” Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (emphasis, alteration, and quotation omitted); see 28 U.S.C. § 636(b). Absent a timely objection, “a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond, 416 F.3d at 315 (quotation omitted).

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<sup>1</sup> Under Federal Rule of Civil Procedure 25(d), the court substitutes Andrew M. Saul for Nancy A. Berryhill as Commissioner of Social Security. See Fed. R. Civ. P. 25(d).

The court has reviewed the M&R, the record, and the briefs. The court is satisfied that there is no clear error on the face of the record. Accordingly, the court adopts the conclusions in the M&R [D.E. 22].

In sum, the court GRANTS plaintiff's motion for judgment on the pleadings [D.E. 16], DENIES defendant's motion for judgment on the pleadings [D.E. 18], and REMANDS the action to the Commissioner under 42 U.S.C. § 405(g) and 1383(c)(3).

SO ORDERED. This 19 day of August 2019.

J. C. Dever  
JAMES C. DEVER III  
United States District Judge